

DISCUSSION CONCERNING CERTAIN PROVISIONS OF R0004-14

The following points identify key provisions of R004-14 and provide an explanation of selected sections:

Section 23:

Subsection 1 of this provision requires one person to be designated as the person responsible “to provide information, sign documents or ensure actions are taken.” This provision is very important when working with the Division. The Division will work through this one individual, and if the individual is non-responsive, it will jeopardize the establishment’s certificate.

Section 24:

Issues related to owners will be decided on a case-by-case basis.

Section 25:

This is the section explaining the application solicitation process. Subsection 2 specifies that point values will be identified when notice is given the Division will solicit applications.

Although not specified in the regulations, when the solicitation is announced, it will also identify whether applications must be post-marked within the 10-day period or physically received in a specified office of the Division.

Section 26:

In this section, there are two references to an “attestation.” Attestations can be used to disqualify an applicant or revoke a certificate if it is found that information was attested to and was not accurate.

In subsection 3(b), we’ve received a lot of questions about the “source” of liquid assets. Applicants need to provide as much confirmable detail as possible related to how the money was originally obtained. The Division will not provide advice on how to delineate this information or on whether a source is acceptable or unacceptable. Decisions in this regard will be made by the Division on a case-by-case basis as applications are reviewed.

Similarly, in subsection 4, there have been a lot of questions about the “evidence of the amount of taxes paid to, or other beneficial financial contributions made to, this State or its political subdivisions...” Applicants will need to do the best they can to identify documentable tax contributions. As it relates to “other beneficial financial contributions,” applicants should justify and demonstrate how such contributions were beneficial.

Subsection 5(b) requires applicants to identify certain information about each owner, officer and board member. The information will assist the Division in understanding an establishment. Further, in some cases, the information will help identify whether a proposed owner, officer or board member has a potential conflict that could jeopardize the application. It will be necessary to understand the regulations and what could make for a potential conflict as it relates to any of the categories.

Subsection 6 requests narrative descriptions of certain areas and a resume for each owner, officer and board member. All of this information is subject to verification and authentication. Any false information can be used to disqualify an applicant or revoke a certificate.

Subsection 8 makes reference to an integrated plan for the “care, quality and safekeeping of medical marijuana from seed to sale . . .” The law allows the Division to issue certificates to four different types of establishments, and it does not specify that a dispensary must be co-owned with a cultivation establishment. However, each establishment still has the obligation to identify how it will meet the requirements from “seed to sale.” The Division will not advise an applicant on how to do that and will expect that this provision be included in the application.

Subsection 11 has the provisions related to the start-up as well as the day-to-day operations of the establishment. The Division expects that owners, officers and board members fully intend to operate in the manner specified in response to this subsection. There will be a temptation to use a template borrowed from someone else’s operation. If that’s done, the Division advises reading it fully, changing names so they reflect the establishment and ensuring a full understanding of each provision put forward. We find that establishments face the most trouble during inspections when they don’t fully implement policies they put forward. Not understanding one’s own policies and carrying them out as indicated could result in disciplinary action of the establishment. Remember that the response in this subsection must comply with these regulations and the Nevada Revised Statutes. An applicant can go beyond the regulations and statutes but will be held accountable, during an inspection, of understanding and carrying out all the aspects of what was identified in response to this subsection.

Section 28:

If a local government limits the number of establishments it will authorize in its jurisdiction, subsection 1 specifies four areas that will be reviewed to determine which applications to continue reviewing.

There has been a lot of discussion about whether local governments will allow establishments, not allow them, or require prior approval in spite of the requirement in the regulations to rank applicants. Nothing formal has been received at this time from any local government indicating a decision one way or another. Therefore, pursuant to this version of the regulations, if a local government prohibits an establishment in its jurisdiction, such as has been done in Lyon County for its unincorporated areas, the Division must still accept the application and rank it. If an applicant meets the minimum

requirements of the Division and ranks it accordingly, the application will be forwarded to Lyon County, and Lyon County will need to deny the application. At the point that Lyon County denies the application, the Division will then deny it as well.

Subsection 3 relates to the criminal history of an applicant or person who is proposed to be an owner, officer or board member. It allows up to 90 days to for an applicant to revise his application if one of these persons has a criminal history that would jeopardize the application. This 90-day period applies at any time in the process, but does not begin a new 90-day review period for the application by the Division.

Section 29:

Subsection 2 of this section specifies the criteria the Division will use to determine the applicant who ranks higher in the case of a tie.